

The Excellent Priviledge of
LIBERTY & PROPERTY
BEING THE ~~16~~
BIRTH - RIGHT

Of the Free-born Subjects of *England*
CONTAINING

- I. *Magna Charta*, with a learned Comment upon it.
- II. The Confirmation of the Charters of the Liberties of *England* and of the Forrest, made in the 35th year of *Edward* the First.
- III. A Statute made the 34 *Edw.* 1. commonly called *De Tallageo non Concedendo*; wherein all Fundamental Laws, Liberties and Customs are confirmed. With a Comment upon it.
- IV. An abstract of the Pattent granted by the King to *William Penn* and his Heirs and Assigns for the Province of *Pennsylvania*.
- V. And Lastly, The Charter of Liberties granted by the said *William Penn* to the Free-men and Inhabitants of the Province of *Pennsylvania* and Territories thereunto annexed, in *America*.

Major Hereditas venit unicuique; nostrum a Jure & Legibus, quam a Parentibus.

John Pemberton
formerly Esq.

p. 37
1320

To the Reader.

IF may reasonably be supposed that we shall find in this part of the world, many men, both old and young, that are strangers, in a great measure, to the true understanding of that inestimable Inheritance that every Free-born Subject of England is Heir unto by Birth-right, I mean that unparalell'd Privilege of Liberty and Property, beyond all the Nations in the world beside; and it is to wish that all men did rightly understand their own happiness therein; in pursuance of which I do here present thee with that antient Garland, the Fundamental Laws of England, bedeckt with many precious Privileges of Liberty and Property, by which every man that is a Subject to the Crown of England, may understand what is his Right, and how to preserve it from unjust and unreasonable men: whereby appears the eminent Care, Wisdom and Industry of our Progenitors in providing for themselves and Posterity so good a Fortress that is able to repel the Lust, Pride and Power of the Noble, as well as Ignorance of the Ignoble; it being that excellent and discreet Balance that gives every man his even proportion, which cannot be taken from him, nor be dispossessed of his Life, Liberty or Estate, but by the tryal and judgment of Twelve of his Equals, or Law of the Land, upon the penalty of the bitter Curses of the whole People; so great was the zeal of our Predecessors for the preservation of these

To the READER.

These Fundamental Liberties (contained in these Charters) from encroachment, that they implored all their Policy and Religious Obligations to secure them intire and inviolable, albeit the contrary hath often been endeavoured, yet providence hitherto hath preserved them as a Blessing to the English Subjects.

The chief end of the Publication heresof is for the information and understanding (what is their native Right and Inheritance) of such who may not have leisure from their Plantations to read large Volumns; And beside, I know this Country is not furnished with Law-Books, & this being the Root from whence all our wholesom English Laws spring, and indeed the Line by which they must be squared, I have ventured to make it publick, hoping it may be of use and service to many Free-men, Planters and Inhabitants in this Country, to whom it is sent and recommended, wishing it may raise up Noble Resolutions in all the Freeholders in these new Colonies, not to give away any thing of Liberty and Property that at present they do, (or of right as Loyal English Subjects, ought to) enjoy, but take up the good Example of our Ancestors, and understand, that it is easie to part with or give away great Priviledges, but hard to be gained, if once lost. And therefore all depends upon our prudent Care and Attings to preserve and lay sure Foundations for our selves and the Posterity of our Loyns.

Philopolites.

INTRODUCTION:

IN *France*, and other Nations, the meer Will of the Prince is Law, his Word takes off any mans Head, imposeth Taxes, or seizes any mans Estate, when, how and as often as he lists; and if one be accused, or but so much as suspected of any Crime, he may either presently Execute him, or Banish, or Imprison him at pleasure; or if he will be so gracious as to proceed by form of their Laws, if any two Villians will but swear against the poor Party, his Life is gone; nay, if there be no *witness*, yet he may be put on the Rack, the Tortures whereof make many an innocent Person confess himself guilty, and then with seeming Justice is executed. But,

In *England* the Law is both the measure and the bound of every Subjects Duty and Allegiance, each man having a fixed Fundamental-Right born with him, as to *Freedom of his Person and Property in his Estate*, which he cannot be depriv'd of, but either by his Consent, or some Crime, for which the Law has impos'd such a penalty or forfeiture. For all our Kings take a solemn Oath (1.) At their Coronation, *To observe & cause the Laws to be kept*: (2.) All our Judges take an Oath, wherein among other points they swear, *To do equal Law and Right to all the Kings Subjects, Rich and Poor, and not to delay any person of common Right for the Letters of the King, or of any other Person, or for any other cause*:

cause: Therefore saith Fortescue, (who was first
chief Justice, and afterwards L. Chancellor to K.
Henry 6.) in his Book *de Laudibus Legum Anglie*,
cap. 9. *Non potest Rex Anglia, &c. The King of
England cannot alter nor change the Laws of his
Realm at his pleasure; For why, he governeth his
people by Power not only Royal, but also Politick: If
his Power over them were only Regal, then he might
change the Laws of his Realm, and charge his Subjects
with Tallage and other Burthens, without their con-
sent; but from this much differeth the Power of a King
whose Government is Politick; for he can neither
change Laws without the consent of his Subjects, nor
yet charge them with Impositions against their wills.*
With which accords Bracton, a learned Judge &
Law-Author, in the Reign of K. Henry the 3d,
saying, *Rex in Regno suo superiores habet Deum &
Legem; i. e. The King in his Realm hath two supe-
riors, God and the Law; for he is under the Di-
rective, tho' not Co-ercive Power of the Law.*

'Tis true, the Law it self affirms, *The King can
do no wrong*, which proceeds not only from a pre-
sumption, that so excellent a Person will do none,
but also because he acts nothing but by *Ministers*,
which (from the lowest to the highest) are answer-
able for their doings; so that if a K. in passion
should command *A.* to kill *B.* without process of
Law, *A.* may yet be prosecuted by Indictment or
upon an *Appeal* (where no Royal Pardon is allow-
able) and must for the same be executed, such
Command notwithstanding.

This

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This original happy Frame of Government is truly and properly call'd an *Englifo mans Liberty*, a Privilege not exempt from the Law, but to be freed in Person & Estate from *Arbitrary Violence and Oppression*. A greater Inheritance (saith Judge Cook) is deriv'd to every one of us from our Laws than from our Parents; For without the former, what would the latter signifie? And this Birth-right of English-men shines most conspicuously in two things:

1. PARLIAMENTS.

2. JURIES.

By the *First* the Subject has a share by his chosen Representatives in the *Legislative* (or Law-making) Power; for no new Laws bind the People of *England*, but such as are by common consent agreed on in that great Council.

By the *Second*, he has a share in the *Executive* part of the Law, no Causes being tryed, nor any man adjudged to loose Life, Member or Estate, but upon the *Verdict* of his Peers or Equals, his Neighbours, and of his own Condition: These two grand Pillars of English Liberty, are the *Fundamental vital Privileges*, whereby we have been, and are preserv'd more free and happy than any other People in the World, and (we trust) shall ever continue so: For whoever shall design to impair, pervert or undermine either of these, do strike at the very Constitution of our Government, and ought to be prosecuted and punished with the utmost Zeal and Rigour. To cut down the Banks
and

INTRODUCTION.

let in the Sea, or to payson all the Springs and Rivers in the Kingdom, could not be a greater Mischief; for this would only affect the present Age, but the other will Ruin and enslave all our Posterity.

But beside these *Paramount Privileges* which the English are estated in by the *Original Constitution* of their *Government*, there are others more particularly declared and expressed in divers *Acts of Parliament* too large to be inserted in this place.

Magna Charta

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The *Great Charter* made in the
9th year of King *Henry* the
3d, and confirmed by King
Edward the 1st in the 28th
Year of his Reign.

Edward, by the Grace of God, King of England,
Lord of Ireland, and Duke of Guyan, to all
Arch-Bishops, &c.

W Ee have seen the Great Charter of the
Lord Henry, sometime King of Eng-
land, our Father, of the Liberties of
England, in these Words :

Henry, by the Grace of God, King of England,
Lord of Ireland, and Duke of Normandy and
Guyan, and Earl of Anjoy ; To all Arch-Bishops,
Bishops, Abbots, Priors, Earls, Barrons, Sheriffs,
Provists, Officers, and to all Bayliffs, and other

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our faithful Subjects, which shall see this present Charter, greeting; Know ye, that we, unto the Honour of Almighty God, and for the Salvation of the Souls of our Progenitors and Successors, Kings of England, to the Advancement of holy Church, and Amendment of our Realm, of our meer and Free-will, have Given and Granted to all Arch-Bishops, Bishops, Abbots, Priors, Earls, Barrons, and to all Free-men of this our Realm, these Liberties following, to be kept in our Kingdom of England forever.

CHAP. I.

A Confirmation of Liberties.

1st, **W**E have granted to God, and by this our present Charter, have Confirmed for us, and our Heirs forever, That the Church of *England* shall be free, and shall have all her whole Rights and Liberties inviolably. (2.) We have granted also, and Given to all the Free-men of our Realm, for us, and our Heirs forever, these Liberties under-written, to Have, and to Hold to them and their Heirs forever.

CHAP. II.

The Relief of the King's Tenant of full Age.

IF any of our Earls or Barrons, or any other which hold of us in chief, by Knights Service, dye,

dye, and at the time of his Death, his Heir be of full age, and oweth his Relief, he shall have his Inheritance by the old Relief, that is to say, The Heir, or Heirs of an Earl, for a whole Earldom, one hundred Pounds; the Heir, or Heirs of a Barron, for a whole Barrony, by one hundred Marks; the Heir, or Heirs of a Knight, for one whole Knights Fee, one hundred Shillings at the most; and he that hath less, shall give less, according to the old Custom of the Fees.

CHAP. III.

The Wardship of an Heir within Age, the Heir a Knight.

BUT if the Heir of any such be within Age, his Lord shall not have the Ward of him, nor of his Land, before that he hath taken of him Homage. (2.) And after that such an Heir hath been in Ward (when he is come to full Age) that is to say, to the Age of one and twenty years, he shall have his *Inheritance* without Relief, and without time, so that if such an Heir being within Age, be made Knight, yet nevertheless, his Land shall remain in the keeping of his Lord, unto the term aforesaid.

CHAP. IV.

*No waste shall be made by a Guardian in
Wards Lands.*

THe keeper of the Land, of such an Heir being within Age, shall not take of the Lands of the Heir but Reasonable Issues, Reasonable Customs, and Reasonable Services, and that without destruction and waste of his Men and his Goods. (2.) And if we commit the Custody of any such Land to the Sheriff, or any other which is answerable to us for the Issues of the same Lands; and he make destruction or waste of those things that he hath in Custody, we will take of him Amends and Recompence therefore. (3.) And the Lands shall be committed to two lawful and discreet men of that Fee, which shall answer unto us for the Issues of the same Land, or unto him whom we will Assign. (4.) And if we give or sell to any man the Custody of any such Land, and he there do make destruction or waste, he shall lose the same Custody, and it shall be assigned to two lawful and discreet men of that Fee; which also in like manner shall be answerable to us, as afore is said.

CHAP. V.

*Guardians shall maintain the Inheritance of their
Wards, and of Bishopricks.*

THe Keeper, so long as he hath the Custody of the Land of such Heir, shall keep up the Houses,

Houses, Parks, Warrens, Ponds, Mills, and other things pertaining to the same Land, with the Issues of the said Land : and he shall deliver to the Heir, when he cometh to full Age, all his Land, stored with Ploughs, and all other things, at the least as he received it; all these things shall be observed in the Custody of Arch-Bishopricks, Bishopricks, Abbies, Priors, Churches, and Dignities vacant, which appertain to us; except this, that such Custody shall not be sold.

CHAP. VI.

Heirs shall be Married without Disparagement.

CHAP. VII.

A Widdow shall have her Marriage Inheritance, and Quarentine: the King's Widdow.

A Widdow, after the death of her Husband, incontinent, and without any difficulty, shall have her Marriage, and her Inheritance. (2.) And shall give nothing for her Dower, her Marriage, or her Inheritance, which her Husband and she held the day of the Death of her Husband. (3.) And she shall tarry in the Chief House of her Husband by forty dayes after the Death of her Husband, within which dayes her Dower shall be Assigned her (if it were not assigned her before) or that the House be a Castle. (4.) And if she depart from the Castle, then a Competent House shall be forth-with provided

for her, in the which she may honestly dwell, until her Dower be to her assigned, as it is afore said; and she shall have in the mean time her reasonable Estovers of the Common. (5.) And for her Dower, shall be assigned unto her the third part of all the Lands of her Husband, which were his during Coverture, except she were endowed of less at the Church-Door. (6.) No Widdow shall be distrained to marry her self; nevertheleis she shall find surety that she shall not marry without our Licence and assent (if she hold of us) nor without the assent of the Lord, if she hold of another.

CHAP. VIII.

How Sureties shall be charged to the King.

WE or our Bailiffs, shall not seize any Lands or Rents for any Debt, as long as present Goods and Chattels of the Debtor do suffice to pay the Debt, and the Debtor himself be ready to satisfie therefore. (2.) Neither shall the Pledges of the Debtor be distrained, as long as the Debt. (3.) And if the principal Debtor fail in the payment of the Debt, having nothing wherewith to pay, or will not pay when he is able, the Pledges shall answer the Debt. (4.) And if they will, they shall have the Lands and Rent of the Debtor, until they be satisfied of that which they before paid for him, except that the Debtor can shew himself to be acquitted against the said Sureties.

CHAP. IX.

CHAP. IX.

The Liberties of London, and other Cities and Towns confirmed.

THe City of *London* shall have all the old Liberties & Customs which it hath been used to have: moreover, we Will and Grant, that all other Cities, and Burroughs, Towns, and the Barrons of the five Ports, and all other Ports, shall have all their Liberties and free Customs.

CHAP. X.

None shall distrain for more Service than is due.

NO man shall be distrained to do more Service then is due for a Knights Fee, nor for any Free-holder than therefore is due.

CHAP. XI.

Common-Pleas shall not follow the King's Court.

Common-Pleas shall not follow our Court, but shall be holden in some place certain.

CHAP. XII.

Where, and before whom Assizes shall be taken, Adjournments for difficulty.

Assizes of *Novel Disseisin*, and of *Mortdancements*, shall not be taken, but in the Shires, and after this manner, if we be out of this Realm, our Chief Justices shall send our Justices through every County once in the Year, which with the Knights of the Shire, shall take the said Assizes in those Counties (2.) And those things that at the

coming of our afore-said Justices, being sent to take those Assizes in the Counties, cannot be determined, shall be ended by them in some other place in their Circuit. (3.) And those things which for difficulty of some Articles, cannot be determined by them, shall be refered to our Justices of the Bench, and there shall be ended.

CHAP. XIII.

Assizes of Darreign Presentments.

Assizes of Darreign Presentments, shall be always taken before our Justices of the Bench, and there shall be determined.

CHAP. XIV.

How men of all sorts shall be amerced, and by whom.

A Free-man shall not be amerced for a small Fault, but after the manner of the Fault; and for a great Fault, after the greatness thereof, saving to him his Contenements. (2.) And a Merchant likewise, saving to him his Merchandize, and any other Alien than ours shall be likewise amerced, saving his Wainage, if he fall into our mercy. (4.) And none of the said Amercements shall be assessed, but by the Oath of honest and lawful men of the Vicinage. (5.) Earls and Barrons shall not be Amerced, but by their Peers, and after the manner of their Offence. (6.) No man of the Church shall be amerced

amerced after the quantity of his Spiritual Benefice, but after his Lay Tenements, and after the quantity of his Offence.

CHAP. XV.

Making of Bridges and Banks:

NO Town, nor Free-man shall be distrained to make Bridges nor Banks, but such as of o'd time, and of Right have been accustomed to make them in the time of King Henry our Grand-Father.

CHAP. XVI.

Defending of Banks.

NO Banks shall be defended from henceforth, but such as were in Defence in the time of King Henry our Grand-Father, by the same Places, and the same Bounds as they were wont to be in his time.

CHAP. XVII.

Holding Pleas of the Crown.

NO Sheriff, Constable, Escheator, Corro-ner, nor any other our Bayliffs, shall hold Pleas of our Crown.

CHAP. XVIII.

The Kings Debtor dying, the King shall be first paid.

IF any that holdeth of us Lay-fee, do dye, and our Sheriff or Bailiff do shew our Letters Pat-
tents of our Summons for Debt, which the dead
man

man did owe to us; It shall be lawful to our Sheriff or Bayliff, to Attach and Inroll all the Goods and Chattels of the Dead, being found in the said Fee, to the value of the same Debt, by the sight and Testimony of Lawful men, so that nothing thereof be taken away, until we be clearly paid off the Debt. (2.) And the residue shall remain to the Executors, to perform the Testament of the Dead. (3.) And if nothing be owing to us, all the Chattels shall go to the use of the Dead (saving to his Wife and Children the reasonable parts.)

CHAP. XIX.

Purveyance for a Castle.

NO Constable, nor his Bayliff, shall take Corn, or other Chattels, of any man, if the man be not of the Town where the Castle is, but he shall forth-with pay for the same, unless that the Will of the Seller was to respite the Payment. (2.) And if he be of the same Town, the Price shall be paid unto him within the forty dayes.

CHAP. XX.

Doing of Castle-Ward.

NO Constable shall distrain any Knight for to give Money for keeping his Cattle, if he himself will do it in his proper Person, or cause it to be done by another sufficient man, if he
may

may not do it himself, for a reasonable cause. (2) And if we do lead or send him in an Army, he shall be free from Castle-Ward, for the time that he shall be with us in Fee in our Host, for the which he hath done Service in our Wars.

CHAP. XXI.

Taking of Horses, Carts, and Woods.

NO Sheriff nor Bayliff of ours, nor any other, shall take the Horses or Carts of any man to make Carriage, except he pay the old Price hinted, that is to say, for Carriage with two Horses, 10 *d.* a day, for three Horses 14 *d.* a day. (2.) No Demesne Court of any spiritual Person or Knight, or any Lord, shall be taken by our Bayliffs. (3.) Nor we, nor our Bayliffs, nor any other, shall take any mans Woods for our Castles, or other our Necessaries, to be done by Licence of him whose the Wood is.

CHAP. XXII.

How long Fellons Lands shall be holden by the King.

WE will not hold the Lands of them that are convict of Felony, but one Year and one Day, and then those Lands shall be delivered to the Lords of the Fee.

Chap. XXIII.

CHAP. XXIII.

In what place Wears shall be put down.

ALl Wears from henceforth shall be utterly put down by *Thames* and *Midway*, and through all *England*, but only the *Sea-Coast*.

CHAP. XXIV.

In what Case a Precipe in Capite is not grantable.

THe Writ that is called *Precipe in Capite* is not grantable from henceforth to no Person of any Free-hold, whereby any Free-man may lose his Court.

CHAP. XXV.

There shall be but one Measure throughout the Realm.

ONe Measure of Wine shall be through our Realm, and one Measure of Ale, and Measure of Corn, that is to say, the Quarter of *London*. (2.) And one Breadth of dyed Cloth, Ruffs, and Habersacks, that is to say, two Yards within the Lists. (3.) And it shall be of Weights as it is of Measures.

CHAP. XXVI.

Inquisition of Life and Member.

Nothing henceforth shall be given for a Writ of Inquisition, nor taken of him that prayeth Inquisition of Life, or of Member, but it shall be granted freely, and not denyed.

Chap. XXVII.

CHAP. XXVII.

*Tenure of the King in Socage, and of another by
Knights Service, petty Serjeantry.*

IF any do hold of us by free Farm, or by Socage or Bargage, and he holdeth Lands of another by Knights Service, we will not have the Custody of his Heir, nor of his Land, which is holden of the Fee of another, by reason of that free Farm, Socage or Bargage. (2.) Neither will we have the Custody of such Fee, Farm or Socage, or Bargage, except Knights Service be due unto us out of the same free Farm. (4.) We will not have the Custody of the Heir, or of any Land by occasion of any petty Serjeantry, that any man holdeth of us by Service, to pay a Knife, Arrow or the like.

CHAP. XXVIII.

Wager of Law shall not be without Witnesses.

NO Bayliff from henceforth shall put any man to his open Law, nor to an Oath, upon his own bare saying, without faithful Witnesses brought in for the same.

CHAP. XXIX.

*None shall be condemned without Tryal: Justice
shall not be sold or deferred.*

NO Free-man shall be taken or imprisoned, or be disseized of his Free-hold, or Liberties, or free Customs, or be out-law'd or exiled,
or

or any otherwise destroyed; nor we will not pass upon him, nor condemn him; but by lawful judgment of his Peers, or by Law of the Land. (2.) We will sell to no man, we will not deny or defer to any man either Justice or Right.

CHAP. XXX.

Merchant strangers, coming into this Realm, shall be well used.

ALL Merchants, (if they were not openly prohibited before) shall have their safe and sure Conduct to depart out of *England*, as to come into *England*, to tarry in and go through *England*, as well by Land as by Sea, to buy and sell without any manner of evil Tools, by the old and rightful Customs, except in time of War. (2.) And if they be of a Land making war against us, and be found in our Realm at the beginning of the Wars, they shall be attached, without harm of Body and Goods, until all be known unto us, or our chief Justice, how our Merchants be intreated there in the Land making war against us. (3.) And if our Merchants be well intreated there, theirs shall be likewise with us.

CHAP. XXXI.

Tenure of a Barrony coming into the Kings hand by Escheat.

IF any man hold of any Escheats, as of the honour of *Wallingford*, *Nottingham*, *Boloin*, or of

of any other Escheats, which be in our hand and our Barronys, and dye, his Heir shall give none other Relief, nor do none other Service to Us, than he should have done to the Barron, if it had been in the Barrons hands. (2.) And we in the same wise should hold it as the Barron held it, neither shall we have the occasion of any Barron of or Escheat, any Escheat, or keeping of any of our men, unless he that held the Barrony or Escheat, otherwise held of us in Chief.

CHAP. XXXII.

Lands shall not be aliened to the Prejudice of the Lords Service.

NO Free-man from henceforth shall give or sell any more of his Land, but so, that the residue of the Lands the Lord of the Fee may have the service due to him, which belongeth to the Fee.

CHAP. XXXIII.

Patrons of Abbies shall have the Custody of them in time of Vocation.

ALI Patrons of Abbies which have the Kings Charter of England, of Advowson, or have old Tenure or Possession of the same, shall have the Custody of them when they fall void, as it hath been accustomed, and as it is afore declared.

CHAP.

CHAP. XXXIV.

In what only case a Woman shall Have an Appeal of Death.

NO man shall be taken or imprisoned upon the appeal of a Woman, for the death of any other than her Husband.

CHAP. XXXV.

At what time shall be kept a County Court, Sheriffs Turn and Lect.

NO Country from henceforth shall be holden but from Moneth to Moneth; and where greater time hath been used, there shall be greater (2.) Nor any Sheriff or his Bayliff shall keep his Turn in the Hundred but twice in the year, and no where but in due place, and accustomed, that is to say, once after *Easter*, and again after the *Feast of St. Michael*, without occasion. So that every man hath his Liberties which he had, or used to have in the time of King *Henry*, our Grandfather, or which he purchased since. (4.) The view of Frank-pledge shall be so done, that so our Peace may be kept. (5.) And that the Tything be wholly kept, as it hath been accustomed. (6.) And that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his View-making in the time of King *Henry* our Grandfather.

CHAP. 36.

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CHAP. XXXVI.

No Land shall be given in Mortmain.

IT shall not be lawful from henceforth, to any, to give his Lands to any Religious House, and to take the same Land again to hold of the same House; nor shall it be lawful to any House of Religion to take the Lands of any, and to lease the same to him of whom he received it: If any from henceforth give his Lands to any Religious House, and thereupon be convict, the gift shall be utterly void, and the Land shall accrew to the Lord of the Fee.

CHAP. XXXVII.

Subsidy in respect of this Charter, and the Charter of the Forrest, granted to the King.

EScuage from henceforth shall be taken, like as it was wont to be in the time of King Henry, our Grand-father, reserving to all Arch-Bishops, Bishops, Abbots, Priors, Templers, Hospitalers, Earls, Barrons, and all Persons, as well Spiritual as Temporal, all their free Liberties and free Customs, which they have had in times past. (2.) And all these Customs and Liberties aforesaid, which we have granted to be holden within this our Realm, as well spiritual as Temporal, to Us and our Heirs, We shall observe. (3.) And all men of this our Realm, as well Spiritual as Temporal, (as much as in them is) shall observe the same, against all Persons in like-
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wife. (4.) And for this our Gift and Grant of these Liberties, and of others contained in our *Charter of Liberties of Our Forreſt*, the *Arch-Bishops, Bishops, Abbots, Priors, Earls, Barrons, Knights, Free-holders*, and other our Subjects, have given unto us the fifteenth part of all their Moveables. (5.) And neither We nor Our Heirs shall procure or do any thing whereby the *Liberties*, in this Charter contained, shall be infringed or broken. (6.) And if any thing be procured by any Person, contrary to the Premises, it shall be had of no force nor effect, those being Witnesses, Lord B. Arch-Bishop of *Canterbury*, E. Bishop of *London*, &c. We ratifying and approving these Gifts and Grants aforeſaid, Confirm and make strong all the same for Us and Our Heirs perpetually. And by the tenure of these presents do renew the same, willing and granting for us and our Heirs, that this *Charter*, and all and ſingular his Articles, forever shall be ſtedfaſtly, firmly and inviolably observed. *In Witneſs* whereof we have cauſed these our Letters Pattents to be made, *T. Edward*, our Son at *Westminster* the twenty eighth day of *March*, in the twenty eighth year of our Reign.

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The COMMENT on Magna CHARTA.

THIS excellent Law holds the first place in our Statute Books, for though there were, no doubt, many Acts of Parliament long before this, yet they are not now extant; 'tis called *Magna Charta*, or the great Charter, not in respect of its bulk, but in regard of the great importance and weight of the matters therein contained; it is also stiled, *Charta Libertatum Regni*, The Charter of the Liberties of the Kingdom; And upon great Reason (saith Cook in his Proem) is so called, from the effect, *quia Liberus facit*, because it makes and preserves the People free. Though it run in the stile of the King, as a Charter, yet (as my L. Cook well observes on the 38 chap.) it appears to have passed in Parliament; for there was then a fifteenth granted to the King by the *Bishops, Earls, Barrons, free Tenants and People*, which could not be, but in Parliament, nor was it unusual in those times to have Acts of Parliament in a form of a Charter, as you may read in the Princes Case, *Coo. Rep. l. 8.*

Likewise, though it be said here, *That the King hath given and granted these Liberties, yet they*

they must not be understood as meer Emanations of Royal favour, or new Bounties granted, which the People could not justly challenge, or had not a right unto before; for the Lord Cook in divers places asserts, and all Lawyers know, that this Charter is for the most part only Declaratory of the principal ground of the Fundamental Laws and Liberties of *England*; No new Freedom is hereby granted, but a Restitution of such as lawfully they had before, and to free them of what had been usurped and encroached upon them by any Power whatsoever; and therefore you may see this *Charter* often mentions *sua jura*, their Rights and Liberties, which shews they had them before, and that the same now were confirmed.

As to the occasion of this Charter, it must be noted, that our Ancestors, the *Saxons*, had with a most equal poize and Temperament, very wisely contrived their Government, and made excellent Provisions for their Liberties, and to preserve the People from Oppression; and when *William*, the *Norman*, made himself Master of the Land, though he be commonly called the Conqueror, yet in truth he was not so, and I have known several Judges that would reprehend any Gentleman at the Bar that casually gave him that Title; for though he killed *Harrold* the Usurper, and routed his Army, yet he pretended a right to the Kingdom, and was admitted

ted by compact, and did take an Oath to observe the Laws and Customs.

But the truth is, he did not perform that Oath so as he ought to have done, & his Successor *William Rufus*, King *Stephen*, *Henry the 1st.* & *Richard* likewise made frequent encroachments upon the Liberties of their People; but especially King *John* made use of so many illegal devices to drain them of Money, that wearied with intollerable Oppressions, they resolved to oblige the King to grant them their Liberties, and promise the same should be observed, which King *John* did in *Running-Mead* between *Saints* and *Windsor*, by two Charters, one called, *Charta Libertatum*, The Charter of Liberties (the form of which you may read in *Matthew Paris*, fol. 246. and is in effect the same with this here recited) the other, *The Charter of the Forrest*, Copies of which he sent into every County, and commandeth the Sheriff, &c. to see them fulfilled.

But by ill Council he quickly after began to violate them as much as ever, whereupon Disturbances and great Miseries arose, both to himself and the Realm. The Son and Successor of this King *John*, was *Henry the third*, who in the 19th Year of his Reign, renewed and confirmed the said Charters; but within two Years after cancelled them by the pernicious Advice of his Favourite, particularly *Hubert de Burgh*, whom he had made Lord chief Justice; one that in former times had been a great lover of his Country,

L 24 J

and a well-deserving Patriar, as well as learned in the Laws, but now to make this a step to his Ambition (which ever Rideth without Reins) perswaded and humoured the King, that he might avoid the Charters of his Father King John, by Burefs, and his own Great Chatrer, and *Charta de Foresta* also, for that he was within Age, when he granted the same; whereupon the King in the eleventh Year of his Reign, being then of full Age, got one of the Great Charters, and of the Forreft into his Hands, and by the Counsel principally of this *Hubert* his Chief Justice, at a Council holden at *Oxford*, unjustly cancelled both the said Charters, notwithstanding the said *Hubert de Burgh* was the Primary Witness of all Temporal Lords to both the said Charters) whereupon he became in high favour with the King, insomuch that he was soon after (*viz.* the 10th of *December*, in the 13th year of that King) created (to the highest Dignity that in those times a Subject had) to be an Earl, *viz.* of *Kent*: But soon after (for Flatterers & Humorists have no sure foundation) he fell into the King's heavy indignation, and after many fearful and miserable Troubles, he was justly, and according to Law, sentenced by his Peers in an open Parliament, and justly degraded of that Dignity, which he unjustly had obtained by his Counsel, for cancelling of *Magna Charta*, and *Charta de Foresta*.

In the 9th Chapter of this Great Charter, all the

the Ancient Liberties and Customs of *London* are confirmed and preserved, which is likewise done by divers other Statutes, as 14 *Edm.* 3. Chap. 2. &c.

The 29th Chapter, NO FREE-MAN SHALL BE TAKEN, &c. Deserves to be written in Letters of Gold; and I have often wondred the Words thereof are not Inscribed in Capitals on all our Courts of Judicature, Town-Halls, and most publick Edifices; they are the *Elixer* of our *English Freedoms*, the Store-house of all our Liberties. And because my Lord Cook in the second part of his *Institutes*, hath many excellent Observations, his very Words I shall here Recite.

This Chapter containeth Nine several Branches.

First. *That No man be taken or imprisoned, but per legem terræ*; that is, by the Common-Law, Statute-Law, or Custom of *England*; for these words, *per legem terræ*, being towards the end of this Chapter, do refer to all the precedent matters in this Chapter; and this hath the first place, because the Liberty of a man's Person is more precious to him, than all the rest that follow, and therefore it is great Reason that he should by Law be relieved therein, if he be wronged, as hereafter shall be shewed.

2dly. *No man shall be disseised*; that is, put out of Seisin, or dispossessed of his Free-hold, that is, Lands or Livelihood, or of his Liberties, or free Customs, that is, of such Franchises and Free-

doms, and free Customs as belong to him, by his free Birth-right; unless it be by the the lawful Judgment, that is, Verdict of his Equals (that is, of men of his own Condition) or by the Law of the Land, that is (to speak it once for all) by the due Course and Process of Law.

3dly. *No man shall be Out-lawed, made an Exlex, put out of the Law*, that is, deprived of the Benefit of the Law, unless he be Out-lawed according to the Law of the Land.

4thly. *No man shall be Exiled or Banished out of his Country*, that is, *nemo prodest patriam*, no man shall lose his Country, unless he be Exiled according to the Law of the Land.

5thly. *No man shall in any sort be destroyed*, (*Destruere id est quod prius structum & factum fuit penitus Evertere Ex diruere*) unless it be by the Verdict of his Equals, or according to the Law of the Land.

6thly. *No man shall be condemned at the King's Suite, either before the King in his Bench, where the Pleas are Coram Rege* (and so are the Words, *hic super eum ibimus*, to be understood) nor before any other Commissioner or Judge whatsoever; and so are the words, *nec super eum Mitimus*, to be understood, but by the Judgment of his Peers, that is, equals, or according to the Law of the Land.

7thly. *We shall sell to no man Justice or Right.*

8thly. *We shall deny to no man Justice or Right.*

9thly. *We shall defer to no man Justice or Right.*

Each

Each of these we shall briefly explain :

1st; *No man shall be taken*, (that is) restrained of Liberty by Petition, or suggestion to the King or his Council, unless it be by Indictment or Presentment of good and lawful men, where such Deeds be done. This Branch, and divers other parts of this Act, have been notably Explained and Construed by divers Acts of Parliament.

2dly; *No man shall be Disseised*, &c. Hereby is intended that *Lands, Tenements, Goods and Chattels*, shall not be seised into the King's hands contrary to this Great Charter, and the Law of the Land; nor any man shall be disseised of his Lands or Tenements, or dispossessed of his Goods or Chattels, contrary to the Law of the Land.

A Custom was alledged in the Town of C. that if the Tenant cease by two Years, that the Lord should enter into the Freehold of the Tenant, and hold the same until he were satisfied of the Arrearages. It was adjudged a Custom against the Law of the Land, to enter into a mans Freehold in that case, without Action or Answer.

King Henry the 6th, granted to the Corporation of Dyers within London, Power to search, &c. *And if they found any Cloth dyed with Log-Wood, that the Cloth should be forfeit.* And it was adjudged, that this Charter concerning the Forfeiture, was against the Law of the Land, and this Statute; for no Forfeiture can grow by Letters Pattents. No

No man ought to be put from his Livelihood, without Answer.

2dly, [*No man Out-lawed*] that is, barred to have the benefit of the Law. And note, to this word *Out-lawed*, these words, *unless by the Law of the Land*, do refer [*of his Liberties*:] This word hath three Significations.

1st, As it hath been said, it signifieth *the Laws of the Realm*, in which respect this Charter is called *Charta Libertatum*, as afore-said.

2dly, It signifieth *The Freedom the Subjects of England have*: for example, the company of Merchant-Taylors of England, having power by their Charter to make Ordinances, made an Ordinance, *That every Brother of the same Society should put the one half of his Cloaths to be dressed by some Cloath-worker free of the same Company, upon pain to forfeit ten Shillings, &c.* And it was adjudged that this Ordinance was against Law, because it was against the *Liberty of the Subject*, for every Subject hath freedom to put his Cloaths to be dressed by whom he will, &c. *sic de similibus*. And so it is, if such, or the like Grant had been made by the Letters Pattents.

3dly, *Liberties* signifie the Franchizes & Priviledges, which the Subjects have of the Gift of the King, as the *Goods & Chattels of Fellons, Out-laws*, and the like, or which the Subject claims by Prescription, as *Wrack, Waif, Stray*, and the like.

So likewise, and for the same Reason, if a Grant be made to any man, to have the sole making of *Cards*, or the sole dealing with any other Trade,

Trade, that Grant is against the Liberty and Freedom of the Subject, that before did, or lawfully might have used that Trade, and consequently against this Great Charter.

Generally all *Monopolies* are against this great Charter, because they are against the Liberty and Freedom of the Subject, and against the Law of the Land.

4^{thly}, [*No man Exiled*] that is, Banisht, or forced to depart, or stay out of *England*, without his consent, or by the Law of the Land: No man can be exiled, or banished out of his Native Country, but either by Authority of Parliament, or in case of Abjuration for Fellony, by the Common-Law: And so when our Books, or any Records, speak of Exile or Banishment, other than in case of Abjuration, it is to be intended to be done by Authority of Parliament, as *Belknap* and other Judges, &c. banished into *Ireland* in the Reign of *Richard* the second.

This is a beneficial Law, and is construed benignely; And therefore the King cannot send any Subject of *England* against his Will to serve him out of the Realm, for that should be an Exile; and he should *perdere patriam*: No, he cannot be sent against his Will into *Ireland*, to serve the King or his Deputy there, because it is out of the Realm of *England*; for if the King might send him out of his Realm to any place, then under pretence of Service, as Ambassador, or the like, he might send him into the furthest parts

parts of the World, whom being an Exile, is prohibited by this Act.

5thly, [*No man destroyed*] that is, Fore-judged of Life or Limbs, or put to torture or death; every Oppression against Law, by colour of any usurped Authority, is a kind of Destruction, and the words *aliquo modo*, any otherwise, are added to the verb *destroyed*; and to no other Verb in this Chapter; and therefore all things, by any manner of means, tending to Destruction, are prohibited: As if a man be accused or indicted of Treason or Felony, his Lands or Goods cannot be granted to any, no, not so much as by *promise*, nor any of his Lands or Goods seized into the Kings hand, before he is attainted; for when a Subject obtaineth a promise of the forfeiture, many times undue means, and more violent Prosecution is used for private Lucre, tending to destruction, than the quiet and just proceeding of the Law would permit; and the party ought to live of his own until Attainder.

6thly, [*By lawful judgment of his Peers*] that is, by his equals, men of his own Rank and Condition. The general division of Persons, by the Law of England, is, either one that is Noble, and in respect of his Nobility, of the Lords House of Parliament, or one of the Commons, and in respect thereof, of the House of Commons in Parliament. And as there be divers degrees of Nobility, as *Dukes, Marquesses, Earls, Viscounts* and *Barrons*, and yet all of them are comprehended

hended under this word *Peers*, and are *Peers* of the *Realm*; so of the *Commons*, they be *Knights*, *Esquires*, *Gentlemen*, *Citizens* and *Yeomen*, and yet all of them of the *Commons* of the *Realm*. And as every of the *Nobles* one is a *Peer* to another, though he be of a several degree, so it is of the *Commons*; and as it hath been said of Men, so doth it hold of Noble Women, either by Birth or Marriage.

And forasmuch as this Judgment by *Peers* is called *lawful*, it shews the Antiquity of this manner of Tryal: it was the antient accustomed legal course long before this Charter.

7thly, [Or by the Law of the Land] that is, by due Process of Law, for so the Words are expressly expounded by the Statute of 37 *Edw.* 3. Chap. 8. and these Words are especially to be referred to those fore-going, to whom they relate; As, none shall be *Condemned without a lawful Tryal by his Peers*, so none shall be *Taken, or Imprisoned, or put out of his Freehold, without due Process of the Law*; that is, by the Indictment or Presentment of good and lawful men of the place, in due manner, or by Writ original of the Common-Law.

Now, seeing that no man can be Taken, Arrested, Attached, or Imprisoned, but by due Process of Law, and according to the Law of the Land, these Conclusions hereupon do follow:

1. That the Person or Persons which commit any, must have Lawful Authority.

2. It

2. It is necessary that the Warrant or *Mittimus* be Lawful, and that must be in Writing under his Hand and Seal.

3. The Cause must be contained in the Warrant, as for *Treason, Felony, &c. Suspicion of Treason or Felony*, or the like perticular Crime: for if it do not thus specific the Cause, if the Prisoner bring his *Habeas Corpus*, he must be discharged, because no Crime appears on the return; nor is it in such case any Offence at all, if the Prisoner make his escape, whereas if the *Mittimus* contain the Cause; the escape would respectively be *Treason or Felony*, though in truth he were not Guilty of the first Offence, and this mentioning the Cause, is agreeable to Scripture, *Acts 5.*

4. The Warrant or *Mittimus*, containing a lawful Cause, ought to have a lawful Conclusion, viz. *And him safely to keep until he be delivered by Law, &c.* and not until the party committing shall further order.

If a man by colour of any Authority, where he hath not any in that perticular case, shall presume to Arrest or Imprison any man, or cause him to be arrested or imprisoned, this is against this Act, and it is most hateful, when it is done by Countenance of Justice. King *Edward the sixth* did Incorporate the Town of *St. Albans*, and granted to them to make *Ordinance, &c.* they made a by-Law upon pain of *Imprisonment*, and it was adjudged to be against this Statute of *Magna Charta*; so it had been, if such an Ordinance

nance had been contained in the Patent it self.

[*We will sell to no man, deny to no man, &c.*]

This is spoken in the Person of the King, who in Judgment of Law in all Courts of Justice is present; and therefore every Subject of this Realm, for Injury done to him in *Bonis, Terris, vel Persona*, in Person, Lands or Goods, by any other Subject, Ecclesiastical or Temporal what-ever he be, without exception, may take his Remedy by the Course of the Law, and have Justice and Right for the Injury done him, *freely* without Sale, *fully* without any denial, and *speedily* without delay; for Justice must have three Qualities, it must be *Libera*, free; for nothing is more odious than Justice set to sale; *plena*, full, for Justice ought not to limp, or be granted piece-meal and *Celeris*, speedily: *quia Dilatio est quaedam negatio*, Delay is a kind of Denial: And when all these meet, it is both JUSTICE and RIGHT.

[*We will nor deny or delay any man, &c.*]

These Words have been excellently expounded by latter Acts of Parliament, that by no means Common-Right or Common-Law should be disturbed or delayed; no, though it be commanded under the *Great Seal*, or *Privy Seal*, *Order*, *Writ*, *Letters*, *Message*, or *Commandment* whatsoever, either from the King, or any other; and that the Justices shall proceed, as if no such Writs, Letters, Order, Message, or other Commandment were come to them; All our Judges

Judges swear to this: for 'tis part of their Oaths, so that if any shall be found wresting the Law to serve a Courts turn, they are *Perjured*, as well as *Unjust*; the common Laws of the Realm should by no means be delayed, for the Law is the surest Sanctuary that a man can take, and the strongest Fortress to protect the weakest of all; *Lex est tutissima Cassis*, the Law is a most safe Head-piece: And *sub Clypeo legis nemo decipitur*, no man is deceived whilst the Law is his Buckler; but the King may stay his own Suit; as a *Capias pro fine*, for he may respit his Fine, and the like.

All Protections that are not Legal, which appear not in the Register, nor warranted by our Books, are expressly against this Branch, *nulla differemus*, we will not delay any man, as a protection under the Great Seal granted to any man directly to the Sheriff, &c. and commanding them, that they shall not Arrest him, during a certain time, at any other man's Suit; which hath Words in it, *Per prerogativam nostram quantum volumus esse Arguendam*, by our Prerogative; which we will not have disputed; yet such Protections have been argued by the Judges, according to their Oath and Duty, and adjudged to be void; as *Mich. 11 H. 7. Rot. 124.* a Protection granted to *Holmes* a Vintner of *London*, his Factors, Servants and Deputies, &c. resolved to be against Law, *Pas. 7 H. 8. Rot. 66.* such a Protection disallowed, and the Sheriff amerced for not Executing the Writ, *Mich. 13. and 14 Ehz.*

14. *Elix.* in *Hitchcock* Case, and many other of latter time: And there is a notable Record of ancient time in 22 E. 1. *John de Marshalls* case; *Non pertinet ad vicecomitem de protectione Regis Judicare, imo ad Curiam.*

Justice or right] We shall not sell, deny or delay *Justice* and *Right*, neither the end, which is *Justice*; nor the mean whereby we may attain to the end, and that is the Law: *Right* is taken here for *Law*, in the same sence that *Justice* often is so called, 1. Because it is the right *Line*, whereby *Justice* distributive, is guided and directed; and therefore all the Commissioners of Oyer and Terminer, of Goal-delivery, of the Peace, &c. have this clause, *Facturi quod Justitiam pertinet, secundum legem & consuetudinem Anglia*, i. e. to do *Justice* and *Right*, according to the Rule of the Law & Custom of England; & that which is called *common Right* in 2 E. 3. is called *common Law* in 14 E. 3. &c. and in this sence it is taken, where it is said, *Ita quod stat Rectus in Curia, id est Legi in Curia.*

2. The Law is called *Rectum*, because it discovereth that which is *tort*, *crooked* or *wrong*; for as *Right* signifieth *Law*, so *tort*, *crooked* or *wrong* signifieth *Injuries*, and *Injuria est contra Jus*, Injury is against *Right*. *Recta linea est index sui & obliqui*, a right line is both declaratory of it self and the oblique. Hereby the crooked Cord of that which is called *discretion* appeareth to be unlawful, unless you take it, as it ought to be, *discretio est dis-*

cernere per Legem, quid sit Justum, discretion is to discern by the Law what is just.

It is called *Right*, because it is the best *Birth-right* the Subject hath, for thereby his *Goods, Lands, Wife & Children, his Body, Life, Honour & Estimation* are protected from *Injury & wrong*. *Major Hæreditas venit unicuique nostrum a Jure & Legibus, quam a Parentibus*; A greater Inheritance descends to us from the Laws, than from our Progenitors.

Thus far the very words of that Oracle of our Law, the sage and learned *Cook*; which so fully and excellently explains this incomparable Law, that it will be superfluous to add any thing further thereunto.

A Confirmation of the Charters of the Liberties of England, and of the Forrest, made in the 3^{5th} Year of Edward the first.

E*Dward*, by the Grace of God, K. of England, Lord of Ireland, and Duke of Guyan, to all those these present Letters shall hear or see, greeting. *Know ye*, that we to the honour of God, and of holy Church, and to the profit of our Realm, have granted for us and our Heirs, that the *Charter of Liberties*, and the *Charter of the Forrest*; which were by common consent of all the Realm, in the time of K. *Henry* our Father, shall be kept in every point without breach. And we will that the same Charter shall be sent under our Seal, as well

well to our *Justices of the Forrest*, as to others, and to all Sheriffs of Shires, and to all our other Officers, and to all our Cities throughout the Realm, together with our Writs, in which it shall be contained, that they cause the aforesaid Charters to be published, and to declare to the People, that we have confirm'd them in all points. And that our *Justicers, Sheriffs and Mayors*, and other Ministers, which under us have the Laws of our Land to guide, shall allow the same Charters pleaded before them in Judgment in all their points, that is to say, the *great Charter* as the *common Law*, and the *Charter of the Forrest* for the Wealth of our Realm.

Chap. 2. And we will, that if any Judgment be given from henceforth contrary to the points of the *Charters* aforesaid, by the Justicers, or any other our Ministers that hold plea before them, against the points of the *Charters*, it shall be undone and holden for naught.

Cap. 3. And we will, that the same Charters shall be sent under our Seal, to *Cathedral Churches* throughout our Realm, there to remain, and shall be read before the People two times by the year.

Cap. 4. And that all *Arch-Bishops & Bishops* shall pronounce the sentence of *Excommunication* against all those that by word, deed or council, do contrary to the aforesaid Charters, or that in any point break or undo them. And that the said Curses be twice a year denounced and published by the Prelates aforesaid. And if the same Pre-

lates, or any of them, be remiss in the denunciation of the said Sentences, the Arch-Bishop of *Sunderbury* and *York* for the time being, shall compel and distrain them to the Execution of their Duties in form aforesaid.

Cap. 5. And for so much as divers People of our Realm are in fear, that the *Aids* and *Tasks* which they have given to us before time, towards our Wars, and other business, of their own grant, or good will (however they were made) might turn to a bondage to them and their Heirs, because they might be at another time found in the Rolls, and likewise for the prizes taken throughout the Realm by our Ministers, We have granted for us and our Heirs, that we shall draw no such *Aids*, *Tasks* nor *Prizes* into a Custom, for any that hath been done heretofore, be it by Roll or any other President that may be found.

Cap. 6. Moreover, we have granted for us and our Heirs, as well to *Archbishops*, *Bishops*, *Abbots*, *Priors*, and other folk of holy Church, as also to *Earls*, *Barons*, and to all the *Commonality of the Land*, that for no business hence-forth, we shall take such manner of *Aids*, *Tasks* or *Prizes*, but by the common assent of the Realm, and for the common profit thereof; saving the antient *Aids* and *Prizes* due and accustomed.

Cap. 7. And for so much as the more part of the *Commonality of the Realm* find themselves foregrieved with the *Maletor of Wools*, that is to wit, a Toll of 40 s. for every Sack of Wool, and have made

made Petition to us for to release the same: We
at their Request have clearly released it, and have
granted for us and our Heirs, that we shall not
take such things, without their common consent
and good will, saving to us and our heirs the
Custom of *Wools*, *Skins* and *Leather*, granted
before by the *Commonality* aforesaid. In *Witness*
of which things we have caused our Letters to be
Patent, Witness *Edward* our Son, at *London* the
10th of *October*, and the twenty fifth year of our
Reign.

The sentence of the Clergy against the breakers
of the Articles above written.

IN the Name of the Father, the Son and the holy
Ghost, Amen. *Whereas* our sovereign Lord the
King, to the honour of God and of holy Church, and
for the common profit of the Realm, hath granted for
him & his Heirs forever, these Articles above writ-
ten; Robert, Archbishop of Canterbury, Primate of
all England, admonisheth all his Province once, twice
and thrice; Because that shortness will not suffer so
much delay, as to give knowledge to all the People of
England of these presents in writing. We therefore
enjoyn all persons, of what Estate soever they be, that
they and every of them, as much as in them is, shall
uphold & maintain these Articles granted by our Son.
Ld. the K. in all points. And all those that in any
point do resist or break, or in any manner hereafter
procure, counsel, or any ways assent to resist or break
those

those Ordinances, or go about it, by word or deed, openly or privily, by any manner of pretence or colour: We the foresaid Arch-bishop, by our Authority in this writing expressed, do excommunicate & accurse, and from the Body of our Lord Jesus Christ, and from all the Company of Heaven, and from all the Sacraments of holy Church, do sequester and exclude.

N.B. It may be observed that this Curse is left out of our late printed Statute-Books, tho' inserted at large in that printed in 3 Vol. in Q. Eliz. days, anno 1557. There is likewise another like dreadful, but more full and express Curse, solemnly pronounced before in the time of K. Henry 3. which also being omitted in our modern Statute-Book, I shall here add.

The Sentence or Curse given by the Bishops against the Breakers of the great Charter.

IN the Year of our Lord 1253. the 3d day of May, in the great Hall of the K. at Westminster, in the presence and by the assent of the Lord Henry, by the Grace of God K. of England, & the Ld Richard Earl of Cornwall his Brother, Roger Bigot Earl of Norfolk and Suffolk, Marshal of England, Humphery Earl of Hereford, Henry Earl of Oxford, John Earl Warren, and other Estates of the Realm of England: W. Boniface, by the mercy of God Arch-bishop of Canterbury, Primate of all England, F. of London, H. of Ely, S. of Worcester, E. of Lincoln, W. of Norwich, G. of Hereford, W. of Salisbury

Salisbury, W. of Durham, R. of Exeter, M. of Car-
lile, W. of Bath, E. of Rochester, T. of St. Davids:
Bishops appareled in Pontificals, with Tapers burn-
ing, against the breakers of the Churches Liberties,
and of the Liberties or other Customs of the Realm of
England, and namely those which are contained in
the Charter of the common Liberties of England,
and Charter of the Forrest, have denounced the sen-
tence of Excommunication in this form. By the Au-
thority of Almighty God, the Father, the Son and the
holy Ghost, and of the glorious Mother of God, and
perpetual Virgin Mary, of the blessed Apostles Peter
and Paul, and of all Apostles, and of all Martyrs,
and of blessed Edward, K. of England, and of all the
Sts of Heaven, we Excommunicate, accurse, & from
the benefits of our holy Mother the Church, we sequester
all those that hereafter willingly & maliciously deprive
or spoil the Church of her Right; and all those that
by any craft or wiliness do violate, break, diminish or
change the Churches Liberties, and free Customs con-
tained in the Charters of the common Liberties, &
of the Forrest, granted by our L. the King, to Arch-bps,
Bps, and other Prelates of England, and likewise to
the Earls, Barons, Knights; and other Free-holders
of the Realm: And all that secretly or openly, by deed
word or council, do make Statutes, or observe them
being made, and that bring in Customs, or keep them
when they be brought in, against the said Liberties or
any of them; and all those that shall presume to judge
against them. All and every which persons before-
mentioned, that wittingly shall commit any of the Pre-
mises,

uses, let them know, that they incur the foresaid Sentence, ipso facto.

So zealous were our Ancestors to preserve their Liberties from encroachments, that they employed all the strength of human Policy and religious Obligations to secure them intire and inviolate. And I declare ingenuously, I would not for the world incur this Curse, as every man deservedly doth, that offers violence to the fundamental Freedoms thereby repeated and confirmed.

A Statute made Anno 34 Edw. 1. commonly called de Tallegeo non Concendendo.

Cap. 1. **N**O Tallage or Aid shall betaken or levied by us or our Heirs in our Realm, without the good will and assent of *Arch-Bishops, Bishops, Earls, Barons, Knights, Burgessees, & other Free men of the Land.*

Cap. 2. No Officer of ours, or of our Heirs, shall take Corn, Leather, Cattle, or any other Goods of any manner of Person, without the good will and assent of the party to whom the goods belonged.

Cap. 3. Nothing from henceforth shall betaken of Sacks of *Wool*, by colour or occasion of *maletoz*.

Cap. 4. We will grant for us and our Heirs, That all Clerks and Lay-men of our Land, shall have their Laws, Liberties and free Customs as largely and wholly as they have used to have the same at any time when they had them best. (2.)
And if any Statutes have been made by us & our
Ancestors,

Ancestors, or any Customs brought in contrary to them, or any manner of Article contained in this present Charter: We will and grant that such manner of Statutes and Customs shall be void and frustrate for evermore.

Cap. 5. Moreover, we have pardon'd *Humphry Bohun*, Earl of *Hereford* and *Essex*, Constable of *England*, *Roger* Earl of *Norfolk* and *Suffolk*, Marshal of *England*, and other Earls, Barons, Knights, Esquires, and namely *John de Ferraris*, with other being of their fellowship, confederacy and bond, and also of other that hold 20 l. Land in our Realm, whether they hold of us in chief or of others, that were appointed at a day certain to pass over with us into *Flanders*, the rancour and evil will born against us, and all other Offences, [*i. any they have committed*] against us, unto the making of this present Charter.

Cap. 6. And for the more assurance of this thing, we will and grant that all *Arch-Bps* and *Bps* forever, shall read this present Charter in Cathedral Churches twice in the year, and upon the reading thereof in every of their Parish Churches shall openly denounce *accursed all those that willingly do procure to be done any thing contrary to the tenor, force and effect of this present Charter in any point.* In witness of which thing, we have set our Seal to this present Charter, together with the Seals of the *Arch-Bps*, *Bps*, which voluntarily have sworn, that as much as in them is, they shall observe the tenor of this present Charter.

The

THe word *Tallage* is derived from the *French* word *Tailler*, to share or cut out a part, & is metaphorically used for any Charge, when the King or any other does cut out or take away any part or share out of a mans Estate; & being a general word, it includes *all Subsidies, Taxes, Tents, Aids, Impositions*, or other *Charges* whatsoever.

The word *Maletoe* signifies an *Evil* (i.e. unjust) *Toll, Custom, Imposition, or Sum of Money.*

The occasion of making this Statute, was this, *K. Edward* being injured by the *French King*, resolves to make War against him, and in order thereunto requires of *Humphery le Bohun* Earl of *Hereford* and *Essex*, and Constable of *England*, and of *Roger Bigot*, Earl of *Norfolk* and *Suffolk*, and Marshal of *England*, and of all the *Earls, Barons, Knights, Esquires*, and *Freeholders* of 20 l. Land, whether they held of him in *Capite*, to contribute towards such his expedition, that is, to go in person, or find sufficient men in their places, in his Army; which the Constable and Marshal, and many of the *Knights* and *Esquires*, and especially this *John Ferrers* taking part with them and all the *Free-men*, stoutly denied, unless it were so ordained and determined by common consent in Parliament, according to Law. And it seems the Contest grew so hot, that *Bakers Chronicle, fol. 99.* relates a strange Dialogue that passed between them, viz. That when the *Earl Marshal* told the King, That if his Majesty pleased to go in Person,

be would then go with him, & march before him in the
Van-Guard, as by right of Inheritance he ought to do;
but otherwise he would not stir. The King told him
plainly, He should go with any other, tho' he went
not in Person. I am not so bound (saith the Earl)
neither will I take that Journey without you. The
King swore, By God, Sir Earl, you shall either go
or Hang. And I swear by the same Oath (said the
Earl) I will neither go nor hang. And so the King
was forc'd to dispatch his Expedition without
them. And yet (saith my L. Cook) altho' the K.
had conceived a deep displeasure against the Con-
stable, Marshal, and others of the Nobility, Gen-
try and Commons of the Realm, for denying that
which he so much desired, yet, for that they stood
in defence of their Laws, Liberties and free Customs,
the said K. Edw. 1st. who (as Sir Will. Herle chief
Justice of the Common Pleas, who liv'd in his
time, & serv'd him, said in the time of K. Edw. 3.)
was the wisest King that ever was; did after his
return from beyond the Seas, not only consent to
this Statute, whereby all such Tallages and Imposi-
tions are forbidden for the future, but also passes
a Pardon to the said Nobles, &c. of all Rancour, Ill
will & Transgressions, [if any they have committed]
which last words were added, lest by acceptance
of a Pardon of Transgression, they should impli-
citely confess that they had transgressed. So
careful were the Lords and Commons in former
times to preserve the Antient Laws, Liberties and
free Customs of their Country.

*An abstract of the Patent granted by the King to
William Penn, and his Heirs and Assigns.*

WE do give and grant (upon divers considerations) to *William Penn* his Heirs & Assigns forever all that tract of Land in *America* with all Islands thereunto belonging That is to say from the beginning of the fortieth degree of *North Latitude* unto the forty third degree of *North Latitude* whose Eastern bounds from twelve English Miles above *New-Castle* (alias *Delaware Town*) runs all along upon the side of *Delaware-River*.

2. Free and undisturbed use and passage into & out of all Harbours Bays Waters Rivers Isles and Inlets belonging to or leading to the same Together with the Soyl Fields Woods Underwoods Mountains Hills Fenns Isles Lakes Rivers Waters Rivulets Bays and Inlets situate in or belonging unto the limits and bounds aforesaid Together with all sorts of Fish Mines Mettles, &c. To have & to hold to the only behoof of the said *William Penn* his Heirs and Assigns forever To be holden of us as of our Castle of *Windsor* in free and common soccage paying only 2 Beaver skins yearly.

3. And of our further Grace we have thought fit to erect and we do hereby erect the aforesaid Country and Islands into a Province & Seigniorie and do call it *Pennsylvania* and so from henceforth we will have it call'd.

4. That

4. That reposing special confidence in the wisdom and justice of the said *W. Penn* we do grant to him and his Heirs and their Deputies for the good and happy Government thereof to ordain and enact and under his and their Seals to publish any Laws whatever for the publick uses of the said Province by and with the advice and approbation of the Free holders of the said Country or their delegates so as they be not repugnant to the Law of this Realm & to the Faith & Allegiance due unto us by the *legal Government* thereof.

5. Full power to the said *W. Penn*, &c. to appoint Judges Leutenants Justices Magistrates and Officers for what causes soever & with what Power and in such Form as to him seems convenient also to be able to pardon & abolish Crimes and Offences and to do all and every other thing that to the compleat establishment of Justice unto Courts and Tribunals forms of Judicature and manner of Proceedings do belong And our pleasure is & so we enjoin & require that such Laws and Proceedings shall be most absolute and available in Law and that all the leige People of us our Heirs and Successors inviolably keep the same in those parts saving to us final Appeals.

6. That the Laws for regulating Property as well for the descent of Lands as enjoyment of Goods and Chattels and likewise as to Felonies shall be the same there as here in *England* until they shall be altered by the said *W. Penn* his Heirs or Assigns and by the Free-men of the said province

Province or their delegates or deputies or the greater part of them.

7. Furthermore that this new Colony may the more happily encrease by the multitude of People resorting thither therefore we for us our Heirs and Successors do hereby grant Licence to all the leige People present & future of us, &c. (excepting such as shall be specially forbidden) to transport themselves and Families into the said Country there to inhabit & plant for the publick and private good.

8. Liberty to transport what goods or commodities are not forbidden paying here the legal Customs due to us, &c.

9. Power to divide the Country into Counties Hundreds and Towns to incorporate Towns into Burroughs and Burroughs into Cities to make Fairs and Markets with convenient Priviledges according to the merit of the Inhabitants or the fitness of the place And to do all other thing or things touching the Premises which to the said *W. Penn* his Heirs or Assigns shall seem meet and requisit albeit they be such as of their own nature might otherwise require a more special comandment & warrant than in these presents is exprest.

10. Liberty to import the growth or Manufactures of that Province into *England* paying here the legal Duty.

11. Power to erect Harbours Creeks Havens Keyes and other places of Merchandizes with such Jurisdiction and Priviledges as to the said *W. Penn*, &c. shall seem expedient.

12. Not to break the Acts of Navigation neither Governour nor Inhabitants upon the penalties contained in the said Acts.

13. Not to be in League with any Prince or Country that is in War against us our Heirs and Successors.

14. Power of safety and defence in such way and manner as to the said *W. Penn, &c.* seems meet.

15. Full power to assign alien grant demise or enfeof of the Premises so many and such parts and parcels to those that are willing to purchase the same as the said *William Penn* thinks fit to have and to hold to them the said Persons their Heirs or Successors in fee Simple or fee Tail or for term of Life or Lives or years to be held of the said *Will. Penn, &c.* as of the said *Seigniorie of Windsor* by such Services Customs and Rents as shall seem fit to the said *W. P.* his Heirs & Assigns and not immediately of us our Heirs or Successors and that the said Persons may take the Premises or any parcel thereof of the said *W. Penn, &c.* and the same hold to themselves their Heirs and Assigns the Statute *Quia emptoroes Terrarum* in any wise notwithstanding.

16. We give & grant Liscence to any of those Persons to whom the said *W. P. &c.* has granted any Estate of Inheritance as aforesaid with the consent of the said *W. P.* to erect any parcel of Lands within the said Province into Mannors to hold Courts Barron & view of Frank-pledge, &c. by themselves or Stewards.

17. Power to those Persons to grant to others the same Tenures in fee simple or otherwise to be held of the said Mannors respectively and upon all further Alienations the Land to be held of the Mannor that it held of before the Alienation.

18. We do covenant & grant to and with the said W. P. his Heirs and Assigns that we will not set or make any Custom or other Taxation upon the Inhabitants of the said Province upon Lands Houses Goods Chattels or Merchandizes except with the consent of the Inhabitants & Governor.

19. A charge that no Officers nor Ministers of us our Heirs & Successors do presume at any time attempt any thing to the contrary of the Premises or in any sort withstand the same but that they be at all times aiding to the said W. P. and his Heirs and to the Inhabitants and Merchants their Factors and Assigns in the full use and benefit of this our Charter.

20. And if any doubts or questions shall hereafter arise about the true sense or meaning of any word clause or sentence contained in this our Charter we will ordain and command that at all times and in all things such Interpretation be made thereof and allowed in any of our Courts whatsoever as shall be adjudged most advantageous and favourable to the said W. P. his Heirs and Assigns so as it be not against the Faith and Allegiance due to us our Heirs and Successors. *In Witness whereof we have caused our Letters to be made Patents. Witness our self at Westminster the fourth day of March, Anno Dom. 1681.*

*The Frame of the Government of the Province
of Pennsylvania and Territories thereunto
annexed, in America.*

To all Persons to whom these presents may come ;

W Hereas King Charles the second by his Letters Pattents under the great Seal of England, bearing date the fourth day of *March*, in the thirty third year of the KING, for divers Considerations therein mentioned, hath been graciously pleased to give and grant unto me *William Penn*, by the name of *William Penn, Esquire*, Son and Heir of *Sir William Penn* deceased, and to my Heirs and Assigns forever, all that tract of Land or Province called *Pennsylvania* in *America*, with divers great Powers, Pre-eminences, Royalties, Jurisdictions and Authorities, necessary for the well-being and good Government thereof. And whereas the Kings dearest Brother *James Duke of York and Albany*, &c. by his Deeds of Feoffment under his hand and seal, duly perfected, bearing date the 24th of *August*, 1682. he hath granted unto me the said *William Penn* my Heirs and Assigns all that Tract of Land, lying and being from twelve miles northward of *New-Castle* upon *Delaware River*, in *America*, to *Cape Henlopen* upon
the

the said River and Bay of *Delaware*, southward, together with all Royalties, Franchises, Duties, Jurisdictions, Liberties and Priviledges thereunto belonging.

Now *know ye*, That for the well-being and good Government of the said Province and Territories thereunto annexed, and for the Encouragement of all the Free-men and Planters that may be therein concerned, in pursuance of the Rights and Powers afore-mentioned, I the said *William Penn* have declared, granted and confirmed, and by these presents for me, my Heirs and Assigns, do declare, grant and confirm unto all the Free-men, Planters, and Adventurers of, in and to the said Province and Territories thereof, these *Liberties, Franchises and Properties*, so far as in me lyeth, to be held, enjoyed and kept by the Free-men, Planters and Adventurers of and in the said Province of *Pennsylvania* and Territories thereunto annexed, forever.

Imprimis, That the Government of this Province and Territories thereof, shall from time to time (according to the Powers of the Pattent, and Deeds of Feoffment afore said) consist of the Proprietary and Governour, and the Free-men of the said Province and Territories thereof in the form of a Provincial Council and Assembly, which Provincial Council shall consist of eighteen Persons, being three out of each County, and which Assembly shall consist of thirty six Persons,

Persons, being six out of each County, men of most note, for Virtue, Wildom, and Ability, by whom all Laws shall be made, Officers chosen and publick Affairs transacted, as is hereafter limited and declared.

2dly. There being three Persons already chosen for every respective County of this Province, and Territories therof, to serve in Provincial Council, one of them for three Years, one for two Years, and one for one Year, and one of them being to go off Yearly in every County. That on the tenth Day of the first Moneth yearly forever after, the Free-men of the said Province and Territories thereof, shall meet together in the most convenient place in every County of this Province, and Territories thereof, then and there chuse one Person, qualified as aforesaid, in every County, being one third of the number to be in Provincial Council for three Years, it being intended that one third of the whole Provincial Council consisting, and to consist of eighteen Persons falling off yearly, it shall be yearly supplied by such new yearly Elections, as aforesaid, and that one Person shall not continue longer than three Years; and in case any Member shall decease before the last Election, during his time, that then at the next Election ensuing his decease, another shall be chosen to supply his place for the remaining time he was to have served, and no longer.

When how long (58)

3dly. That after the first seven Years, every one of the said third parts that goeth yearly off, shall be incapable of being chosen again for one whole Year following, that so all that are capable and qualified, as aforesaid, may be fitted for Government, and have a share of the care and burthen of it.

How many of the Council shall make a Quorum

4thly. That the Provincial Council in all cases and matters of moment, as their arguing upon Bills to be past into Laws, or proceedings about erecting of Courts of Justice, sitting in Judgment upon Criminals impeached, and choice of Officers in such manner as is herein after expressed, not less than two thirds of the whole, shall make a *Quorum*, and that the consent and approbation of two thirds of that *Quorum* shall be had in all such Cases or Matters of Moment. And that in all cases and matters of lesser moment, one third of the whole shall make a *Quorum*, the Majority of which shall and may always determine in such Cases and Causes of lesser moment.

Power of making Laws

5thly. That the Governour and Provincial Council shall have the Power of preparing and proposing to the Assembly hereafter mentioned, all Bills which they shall see needful, and that shall at any time be past into Laws within the said Province and Territories thereof, which Bills shall be published, and affixed to the most noted place in every County of this Province and Territories thereof twenty days before the meeting

from when

meeting of the Assembly, in order to passing them into Laws.

6thly. That the Governour and Provincial Council shall take care that all Laws, Statutes and Ordinances which shall at any time be made within the said Province and Territories, be duly and diligently executed.

7thly. That the Governour and Provincial Council shall at all times have the care of the Peace and Safety of this Province, and Territories thereof; and that nothing be by any Person attempted to the Subversion of this frame of Government.

8thly. That the Governour and Provincial Council shall at all times settle and order the Scituation of all Cities and Market-Towns in every County, modelling therein all publick Buildings, Streets, and Market-places, and shall appoint all necessary Roads and High-ways in this Province and Territories thereof.

9thly. That the Governour and Provincial Council shall at all times have power to inspect the management of the publick Treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governour, Provincial Council, and Assembly.

10thly. That the Governour and Provincial Council shall erect and order all publick Schools, and encourage and reward the Authors of useful Sciences, and laudable Inventions in the said Province and Territories thereof.

Council residing with the Governour, shall with the Governour from time to time have the care of the management of all publick Affairs, relating to the Peace, Justice, Treasury, Trade & Improvement of the Province and Territories, and to the good Education of Youth, and Sobriety of the Manners of the Inhabitants therein, as aforesaid.

12thly. That the Governour or his Deputy shall always preside in the Provincial Council, and that he shall at no time therein perform any publick Act of State whatsoever, that shall or may relate unto the Justice, Trade, Treasury or Safety of the Province, and Territories as aforesaid, but by and with the Advice and Consent of the Provincial Council thereof.

13thly. And to the end that all Bills prepared and agreed by the Governour and Provincial Council, as aforesaid, may yet have the more full concurrence of the Free-men of the Province and Territories thereof, It is declared, granted and confirm'd, that at the time and place in every County, for the choice of one Person to serve in Provincial Council, as aforesaid, the respective Members thereof at their said Meeting, shall yearly chuse out of themselves six Persons of note, for their Virtue, Wisdom and Ability, to serve in Assembly, as their Representatives, who shall yearly meet on the Tenth day of the third Moneth, in the Capital

Closing the assembly Town

35

Town or City of the said Province, unless the Governour and Provincial Council shall think fit to appoint another place to meet in, where during eight days, the several Members may freely confer with one another, and if any of them see meet with a Committee of the *Provincial Council*, which shall be at that time purposely appointed to receive from any of them, Proposals for the alteration or amendment of any of the said *proposed* and promulgated Bills, & on the ninth day from their so meeting, the said Assembly, after their reading over of the proposed Bills by the Clerk of the Provincial Council, and the occasions and motives for them being open'd by the Governour, or his Deputy, shall upon the Question by him put, give their Affirmative or Negative, which to them seemeth best, in such manner as is hereafter exprest, but not less than two thirds shall make a *Qorum* in the passing of all Bills into Laws, and choice of such Officers as are by them to be chosen.

14. That the Laws so prepared and proposed, as aforesaid, that are assented to by the Assembly, shall be enrolled as Laws of this Province and Territories thereof, with this Stile, *By the Governour, with the Assent and Approbation of the Free-men in Provincial Council and Assembly met.* And from henceforth the Meeting, Sessions, Acts and Proceedings of the Governour, Provincial Council and Assembly shall be stiled and called, *The Meeting, Sessions, Acts and Proceedings*

of the General Assembly of the Province of Pennsylvania, and the Territories thereunto belonging.

15. And that the Representatives of the People in Provincial Council and Assembly, may in after Ages bear some proportion with the increase and multiplying of the People, the Numbers of such Representatives of the People may be from time to time increased and enlarged, so as at no time the number exceed seventy two for the Provincial Council, and two hundred for the Assembly; the appointment and proportion of which Number, as also the laying and methodizing of the choice of such Representatives in future time, most equally to the division of the Country, or number of the Inhabitants, is left to the Governour and Provincial Council to propose, and the Assembly to resolve, so that the order of rotation be strictly observed, both in the choice of the Council, and the respective Committees thereof, viz. one third to go off, and come in yearly.

16. That from, and after the Death of this Present Governour, the Provincial Council shall together with the succeeding Governour, erect from time to time standing Courts of Justice, in such Places and Number as they shall judge convenient for the good Government of the said Province and Territories thereof; and that the Provincial Council shall on the thirteenth day of the second Moneth, then next ensuing, elect and present to the Governour, or his Deputy,

a double number of Persons, to serve for Judges, Treasurers, and Masters of the Rolls within the said Province and Territories, to continue so long as they shall well behave themselves in those Capacities respectively, and the Free-men of the said Province in Assembly met, shall on the thirteenth day of the third Moneth, yearly, elect, and then Present to the Governour or his Deputy a double number of Persons to serve for Sheriffs, Justices of the Peace, and Coroners for the Year next ensuing, out of which respective Elections and Presentments the Governour or his Deputy shall nominate and commissionate the proper number for each Office, the third day after the said respective Presentments, or else the first named in such Presentment for each Office, as aforesaid, shall stand and serve in that Office the time before respectively limited; and in case of Death or Default, such vacancy shall be supplied by the Governour and Provincial Council in manner aforesaid.

17. That the Assembly shall continue so long as may be needful to impeach Criminals fit to be there impeached, to pass such Bills into Laws as are proposed to them, which they shall think fit to pass into Laws, and till such time as the Governor and Provincial Council shall declare, *That they have nothing further to propose unto them for their Assent and Approbation*; and that declaration shall be a Dismiss to the Assembly for that
~~Sheriffe,~~

time, which Assembly shall be notwithstanding capable of assembling together upon the summons of the Governour and Provincial Council at any time during that year, if the Governor and Provincial Council shall see occasion for their so assembling.

manner of Election,

18. That all the Elections of Members or Representatives of the People, to serve in Provincial Council and Assembly, and all Questions to be determined by both or either of them, that relate to the choice of *Officers*, & all or any other Personal matters, shall be resolved and determined by the *Ballot*, and all things relating to the preparing and passing of Bills into Laws, shall be openly declared and resolved by the *Vote*.

19. That at all times when the Proprietary and Governour shall happen to be an Infant, and under the Age of one and twenty Years, and no Guardian or Commissioners are appointed in writing by the Father of the said Infant, or that such Guardian shall be deceased, that during such Minority, the Provincial Council shall from time to time, as they shall see meet, constitute and appoint Guardians and Commissioners, not exceeding three, one of which shall preside as Deputy and chief Guardian, during such Minority, and shall have and execute, with the consent of one of the other two, all the Power of a Governor in all publick Affairs and Concerns of the said Province and Territories thereof, according to *Charter*; which said Guardian so appointed,

shall also have the care and over-sight of the Estate of the said Minor, and be yearly accountable and responsible for the same to the Provincial Council, and the Provincial Council to the Minor when of Age, or to the next Heir in case of the said Minor's death, for the Trust before expressed.

20. That as often as any days of the Month mentioned in any Article of this Charter shall fall upon the First day of the Week, commonly called the *Lords day*, the business appointed for that day shall be deferred till the next day, unless in cases of Emergency.

21. And for the Satisfaction and Encouragement of all Aliens, I do give and grant, that if any Alien, who is or shall be a purchaser, or who doth or shall inhabit in this Province or Territories thereof, shall decease at any time before he can well be naturalized, his Right and Interest therein shall notwithstanding descend to his Wife and Children, or other his Relations, be he Testate or Intestate, according to the Laws of this Province and Territories thereof, in such cases provided, in as free and ample manner, to all intents and purposes, as if the said Alien had been naturaliz'd.

22. And that the Inhabitants of this Province and Territories thereof may be accommodated with such Food and Sustenance as God in his Providence hath freely afforded, I do also further grant to the Inhabitants of this Province and Territories

territories thereof, liberty to fowl and hunt upon the Lands they hold, or all other Lands therein, not enclosed, and to fish in all Waters in the said Lands, and in all Rivers and Rivulets in and belonging to this Province and Territories thereof, with liberty to draw his or their Fish to shore on any mans Lands, so as it be not to the detriment or annoyance of the Owner thereof, except such Lands as do lie upon Inland Rivulets that are not boatable, or which are or may be hereafter erected into Mannors.

23. And that all the Inhabitants of this Province and Territories thereof, whether Purchasers or others, may have *the last worldly Pledge of my good and kind Intentions* to them and theirs, I do give, grant and confirm to all and every one of them *full and quiet Enjoyment* of their respective Lands to which they have any *lawful or equitable Claim*, saving only such Rents and Services for the same as are or customarily ought to be reserved to Me, my Heirs and Assigns.

not to be altered
24. That no *Act, Law or Ordinance* whatsoever shall at any time hereafter be made or done by the *Proprietary and Governour* of this Province and Territories thereunto belonging, his Heirs, and Assigns, or by the *Free-men in Provincial Council or Assembly*, to alter, change or diminish the form or effect of this *Charter*, or any part or clause thereof, contrary to the true intent and meaning thereof, without the consent of the *Proprietary and Governour*, his *Heirs or Assigns*, and

and Six parts of Seven of the said Free-men in Provincial Council and Assembly met.

25. And Lastly, I the said *William Penn*, Proprietary and Governour of the Province of *Pennsylvania* & Territories thereunto belonging, for my self, my Heirs and Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, that neither I, my Heirs or Assigns shall procure or, do any thing or things whereby the *Liberties* in this Charter contained and expressed shall be infringed or broken: And if any thing be procured by any Person or Persons contrary to these Promises, it shall be held of no force or effect. In Witness whereof, I the said *William Penn* at *Philadelphia* in *Pennsylvania*, have unto this present Charter of *Liberties* set my Hand and broad Seal this second day of the second Moneth, in the Year of our Lord 1683. being the thirty fifth year of the King, and the third year of my Government.

William Penn.

INDORSED.

THis within Charter which we have distinctly heard read, and thankfully received, shall be by us inviolably kept at *Philadelphia*, the 2d of the 2d Moneth, 1683.

The Members of the Provincial Council present;

*William Markham, Will. Clayton, James Harrison,
John Moll, Francis Whitwell, John Hillyard,
Christop. Taylor, Will. Clark, Phil. Lehman, Sec.
Will. Haige, Thomas Holme, John Richardson,
John Simcock, William Biles, Richard Ingelo,
Cl. Concilij*

The Members of the Assembly present;

*Casparus Harman, William Fitcher, Robert Lucas,
John Darby, John Kipshaven, James Williams,
Benjamin Williams, Alexander Molestone, John
Blunstone, William Guest, Robert Bracy, John
Songhurst, Valentine Hollinsworth, Tho. Bracy,
John Hill, James Boyden, Will Yardly, Nicholas
Walln, Benony Bishop, John Hastings, Tho. Fitz-
water, John Bezor, Robert Wade, John Clows,
John Harding, Fr. Hassold, Luke Watson, An-
drew Brinkstone, John Hart, Joseph Phips, Simon
Irons, Robert Hall, Dennis Rotchford, Jo. Wood,
Robert*

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Robert Bedwell, John Brinklair, John Curtis,
William Simsmore, Henry Bonnin, Daniel Brown,
Sam. Dark, Cornelius Venhoof,
John Southworth, Cl. Synod

Some of the Inhabitants of Philadelphia then
present,

William Howell, } Henry Lewis,
Edward Varner, } Samuel Miles.

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